

Exhibit 3

CONTAINS CONFIDENTIAL AND ATTORNEYS' EYES ONLY PORTIONS

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 AUSTIN FENNER and IKIMULISA)
LIVINGSTON,)

5 Plaintiffs,)

6 vs.) 09CIV9832

) (BSJ(RLE)

7 NEWS CORPORATION, NYP HOLDINGS,)
8 INC., d/b/a THE NEW YORK POST,)
and DAN GREENFIELD and MICHELLE)
9 GOTTHELF,)

10 Defendants.)
11 -----)

12
13 (CONTAINS CONFIDENTIAL and
14 ATTORNEYS' EYES ONLY PORTIONS)

15
16 VIDEOTAPED DEPOSITION OF DAN GREENFIELD
17 New York, New York
18 Thursday, April 5, 2012
19
20
21
22

23 Reported by:
24 Philip Rizzuti
25 JOB NO. 47782

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<p>1 Greenfield</p> <p>2 question is as of today is it fair to say that</p> <p>3 all the editors who worked on the metro desk</p> <p>4 and these three reporters who occasionally</p> <p>5 work on the metro desk are white?</p> <p>6 A. I preface it again by saying --</p> <p>7 Q. Just answer the question, you</p> <p>8 don't have too preface it?</p> <p>9 A. I will answer it. I never regard</p> <p>10 people --</p> <p>11 Q. Mr. Greenfield, I move to strike.</p> <p>12 Please just answer the question, I don't want</p> <p>13 to have to call the judge. You don't have to</p> <p>14 keep prefacing it, just answer the question</p> <p>15 that I am asking you. Can you please read</p> <p>16 back the question.</p> <p>17 (Record read.)</p> <p>18 A. I don't see people that way, but</p> <p>19 yes.</p> <p>20 Q. Do you know Mr. Greenfield if any</p> <p>21 reporters at the New York Post have ever been</p> <p>22 promoted to an editor's position on the metro</p> <p>23 desk during your tenure?</p> <p>24 A. I am sorry.</p> <p>25 Q. Do you know if any reporters at</p>	<p>1 Greenfield</p> <p>2 the New York Post have ever been promoted to</p> <p>3 an editor position on the metro desk during</p> <p>4 your tenure?</p> <p>5 A. Yes.</p> <p>6 Q. Can you identify those</p> <p>7 individuals?</p> <p>8 A. Tom Liddy, Tom Namako and Eric</p> <p>9 Lenkowitz.</p> <p>10 Q. Can you recall anyone else?</p> <p>11 A. I mentioned before Todd Venezia</p> <p>12 working as a sometime editor. I don't think</p> <p>13 that would qualify as a promotion though.</p> <p>14 Q. Is Tom Liddy Caucasian?</p> <p>15 A. Yes.</p> <p>16 Q. So is it true, Mr. Greenfield,</p> <p>17 that the only reporters that you know of that</p> <p>18 have been promoted to an editor position on</p> <p>19 the metro desk are Caucasian?</p> <p>20 A. I can't think of anybody else. I</p> <p>21 think it is those three. I am not sure if</p> <p>22 that is an exclusive list, but yes, of those</p> <p>23 people that I mentioned they are all</p> <p>24 Caucasian.</p> <p>25 Q. How many reporters work in the</p>
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<p>1 Greenfield</p> <p>2 metro department at the New York Post?</p> <p>3 A. I don't actually have a head</p> <p>4 count, but we are probably talking 50 to 60,</p> <p>5 including part-timers -- well there are also</p> <p>6 part-timers, but again a total number I can't</p> <p>7 think of off the top of my head. But in that</p> <p>8 ballpark.</p> <p>9 Q. How many black full-time reporters</p> <p>10 work in the metro department?</p> <p>11 A. Again not seeing people in those</p> <p>12 terms, the whole department, I think it might</p> <p>13 be three or four.</p> <p>14 Q. Identify the three or four black</p> <p>15 full-time reporters that work in the metro</p> <p>16 department?</p> <p>17 A. The ones that I was just thinking</p> <p>18 of, Kim Livingston. Actually no, it is more</p> <p>19 now that I think of it. It is Kim Livingston,</p> <p>20 Leonard Green, Christina Carrega, Georgette</p> <p>21 Roberts. There might be others, I am trying</p> <p>22 to think. Just trying to go through all the</p> <p>23 staff in my mind. I am not sure how Doug</p> <p>24 Montero identifies himself, he is Hispanic.</p> <p>25 Q. I am not asking about Hispanic, I</p>	<p>1 Greenfield</p> <p>2 am asking about African-American?</p> <p>3 A. Okay. Sabrina Ford.</p> <p>4 Q. Anyone else?</p> <p>5 A. There may be others, Mr. Thompson,</p> <p>6 I am trying to remember.</p> <p>7 Q. Take your time.</p> <p>8 A. This is currently?</p> <p>9 Q. Yes.</p> <p>10 A. Off the top of my head those are</p> <p>11 the names that I can think of.</p> <p>12 Q. Do you know why there are only</p> <p>13 five black full-time reporters out of 50 or 60</p> <p>14 reporters who work in the metro department?</p> <p>15 MR. LERNER: Objection.</p> <p>16 A. I don't.</p> <p>17 Q. When Mr. Fenner worked as a</p> <p>18 reporter for the New York Post between 2007</p> <p>19 and 2009 how many black full-time reporters</p> <p>20 worked in the metro department?</p> <p>21 A. Again I think of Austin as a</p> <p>22 reporter who happened to be African-American,</p> <p>23 but I am trying to remember names. Neil</p> <p>24 Graves was here at the time. Leonard Green</p> <p>25 was here at the time that Austin was here.</p>

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<p>1 Greenfield</p> <p>2 Q. Would you consider Kevin Fasick to</p> <p>3 be a runner?</p> <p>4 A. Field reporter, runner, yes.</p> <p>5 Q. Would you consider Reuven Fenton</p> <p>6 to be a runner?</p> <p>7 A. Field reporter, yes, sure, runner.</p> <p>8 Q. What about Rebecca Rosenberg?</p> <p>9 A. Same.</p> <p>10 Q. Amber Sutherland?</p> <p>11 A. Yes.</p> <p>12 Q. Frank Rosario?</p> <p>13 A. Yes.</p> <p>14 Q. Celim Algar?</p> <p>15 A. Yes. Celim and Kieran are</p> <p>16 runners, but they are based out on Long</p> <p>17 Island, so their jobs are similar, but they</p> <p>18 don't necessarily come into the city like</p> <p>19 everybody else. As I said there might be</p> <p>20 others, I am trying to remember.</p> <p>21 Q. Do you know if Kevin Fasick has</p> <p>22 worked at the New York Post longer than</p> <p>23 Ms. Livingston?</p> <p>24 A. He has not.</p> <p>25 Q. Do you know if Rueven Fenton has</p>	<p>1 Greenfield</p> <p>2 worked at The Post longer than Ms. Livingston?</p> <p>3 A. He has not.</p> <p>4 Q. What about Rebecca Rosenberg, has</p> <p>5 she worked at the newspaper longer than</p> <p>6 Ms. Livingston?</p> <p>7 A. As full-time?</p> <p>8 Q. Yes.</p> <p>9 A. Shes has not.</p> <p>10 Q. Has Amber Sutherland worked at the</p> <p>11 newspaper longer than Ms. Livingston?</p> <p>12 A. She has not.</p> <p>13 Q. Has Frank Rosario worked longer at</p> <p>14 the newspaper than Ms. Livingston?</p> <p>15 A. He has not.</p> <p>16 Q. How about Celim Algar?</p> <p>17 A. I don't know.</p> <p>18 Q. How about Kieran Crowley?</p> <p>19 A. I don't know.</p> <p>20 (Continued in confidential,</p> <p>21 attorneys eyes' only portion of</p> <p>22 transcript.)</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 Greenfield - confidential - attorneys eyes' only</p> <p>2 Q. Do you know how much</p> <p>3 Ms. Livingston is currently paid annually as a</p> <p>4 reporter at the New York Post?</p> <p>5 A. In -- not the exact number, but I</p> <p>6 think in broad strokes.</p> <p>7 Q. Can you tell us what your</p> <p>8 understanding is in terms of how much she</p> <p>9 makes annually?</p> <p>10 A. I think she makes around \$70,000,</p> <p>11 plus overtime.</p> <p>12 Q. Does Ms. Livingston make more</p> <p>13 money annually than Kevin Fasick?</p> <p>14 A. I don't know.</p> <p>15 Q. Does she make more money annually</p> <p>16 than Reuven Fenton?</p> <p>17 A. I don't know.</p> <p>18 Q. Does she make more money annually</p> <p>19 than Rebecca Rosenberg?</p> <p>20 A. Okay, let me clarify that. Are we</p> <p>21 talking salary or total income, because all of</p> <p>22 these people -- if I may. All of these people</p> <p>23 are eligible for overtime, and all of them</p> <p>24 may, because I am not privy to their pay on a</p> <p>25 weekly or annual basis, may make more, may</p>	<p>1 Greenfield - confidential - attorneys eyes' only</p> <p>2 make less depending on the hours that they</p> <p>3 work.</p> <p>4 Q. I am talking about the annual</p> <p>5 salary exclusive of overtime?</p> <p>6 A. I wanted to be specific.</p> <p>7 Q. Let me make it clear.</p> <p>8 Does Ms. Livingston make more</p> <p>9 money in an annual salary than Kevin Fasick?</p> <p>10 A. I believe she does, yes.</p> <p>11 Q. How much does Kevin Fasick make</p> <p>12 annually?</p> <p>13 A. Again broad terms, I don't assign</p> <p>14 salaries, I am not a hundred percent sure, but</p> <p>15 I could give you a range.</p> <p>16 MR. LERNER: Don't guess. If you</p> <p>17 know the answer, tell him. If you don't</p> <p>18 know the answer, tell Mr. Thompson you</p> <p>19 don't know the answer.</p> <p>20 A. I couldn't say specifically.</p> <p>21 Q. Does Ms. Livingston make more in</p> <p>22 terms of an annual salary than Reuven Fenton?</p> <p>23 A. I couldn't say.</p> <p>24 Q. Does she make more with respect to</p> <p>25 her annual salary than Rebecca Rosenberg?</p>

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1 Greenfield
2 MR. LERNER: Objection.
3 A. Could you ask the question again?
4 Q. Strike that.
5 Do you have any experience --
6 strike that.
7 Do you know if Michelle Gotthelf
8 based on your working with her would ever put
9 any false statement in an employee's
10 performance evaluation?
11 A. No.
12 Q. Now I want to show you what is
13 marked as Deposition Exhibit 4, Bates stamped
14 IL 176. Please take a moment and look at that
15 exhibit, Mr. Greenfield, and tell us if you
16 recognize it?
17 A. I am sorry, what was the question?
18 Q. You have had a chance to review
19 this exhibit?
20 A. Yes.
21 Q. You see it is an E-mail from Zach
22 Haberman dated February 20, 2008, at 10 p.m.
23 to Ms. Livingston; correct?
24 A. Yes, I do.
25 Q. Can you read the text of what he

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1 Greenfield
2 wrote to her that day?
3 A. Once again hell of a story,
4 exactly the kind of eyes open head up thing we
5 need throughout this trial. Zach.
6 Q. Now, Mr. Greenfield, would you
7 agree that Zach Haberman was referring to the
8 Sean Bell trial when he sent that E-mail to
9 Ms. Livingston?
10 A. I don't know, it doesn't say.
11 Q. But as you sit now do you know of
12 any other trial that Ms. Livingston was
13 covering for the New York Post in February of
14 2008?
15 A. I don't know one way or the other.
16 Q. Well you would agree that Mr.
17 Haberman is telling Ms. Livingston that she
18 had a heck of a story?
19 A. On that day.
20 Q. Would he agree that he was
21 praising her work on that day?
22 A. On that day it looks like he was
23 praising for her something, I don't know
24 specifically.
25 Q. Right, but he says hell of a

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1 Greenfield
2 story; correct?
3 A. That is what it says here.
4 Q. So he was praising her in
5 connection with the story; correct?
6 A. In connection with it.
7 Q. And he also says: Exactly the
8 kind of eyes open, heads up thing we need
9 throughout this trial; right?
10 A. I see that here. Very well could
11 have been following up what had not been, that
12 he had been critical. Saying this is the kind
13 of thing that we do need, I don't know.
14 Q. You are guessing right now, aren't
15 you; are you guessing?
16 A. Well you are asking me to guess on
17 the whole thing --
18 MR. LERNER: Let him finish.
19 A. I have not seen this before. I
20 didn't write this. I don't even know for sure
21 that this is about the Sean Bell trial.
22 Q. I understand. Let me make it
23 clear. I don't want you to guess. If you
24 don't an answer to the question just say you
25 don't know. No one in this room wants you to

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1 Greenfield
2 guess, do you understand that Mr. Greenfield?
3 A. Then it is very hard for me to
4 speak to the E-mail.
5 Q. Well you can read the E-mail;
6 correct?
7 A. Yes.
8 Q. You understand what hell of a
9 story means; right?
10 A. Yes, I do.
11 Q. That means a good story; correct?
12 A. It means the story was good, yes.
13 Q. You don't have to guess about
14 that, do you?
15 A. Well --
16 Q. I want to show you now what was
17 marked as --
18 A. I wasn't done speaking.
19 Q. Okay, continue to speak?
20 A. The hell of a story, it says that,
21 but it doesn't say specific what her
22 contribution to whatever story this was. He
23 is speaking about the story. I don't know
24 what it is that he is speaking to her about.
25 Q. Okay.

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Greenfield

A. I don't recall the specifics of a conversation on that front.

Q. I am not asking you for the specifics. Do you recall anything that Ms. Gotthelf said to you when she spoke to you about whether Ms. Livingston should be reassigned from that courthouse?

A. I remember the discussions were again surrounding, you know, about the fact that she needed rewrite. The fact that she was not breaking enough stories. She was not providing enough enterprise overall during her time at the court. Those were issues that were raised.

Q. Who made the decision to reassign Ms. Livingston from the Queens courthouse?

A. Michelle Gotthelf.

Q. How do you know that?

A. She told me. I believe she also -- pretty certain that she also ran it by Jesse Angelo at least.

Q. How do you know that she ran her decision by Jesse Angelo?

A. I seem to recall that, I don't

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Greenfield

have -- I seem to remember that.

Q. Tell us what basis do you have to say that she ran her decision by Jesse Angelo?

A. I seem to remember her saying that.

Q. What did she say to you about that?

A. I don't remember.

Q. Well in substance do you recall a single thing she said to you about talking to Jesse Angelo about her decision to reassign Ms. Livingston?

A. No.

Q. Did you ever speak to Jesse Angelo about the decision to reassign Ms. Livingston from the Queens courthouse?

A. I did not.

Q. Did you ever speak to any editor apart from Michelle Gotthelf about the decision to reassign Ms. Livingston from the Queens courthouse?

A. Do you mean after or before --

Q. Before?

A. I mean as I mentioned before I was

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Greenfield

aware of, you know, I was aware of Zach's displeasure. I was aware of the issues that Clemente, he was a writer, he was not really an editor, he is not an editor, of those issues. But I don't -- I didn't have any kind of conversations. I really was on the -- I really wasn't very involved with this.

Q. Was Zach Haberman yelling at -- strike that -- did he ever yell at Michelle Gotthelf as far as you know?

A. I think I testified earlier that he did indeed -- at the end of -- this was still, still early in Zach's tenure when this all happened. The issues with Michelle were toward the end, about a year later, I guess about the time that we are talking about now. But later, yes, I do remember them raising their voices towards each other.

Q. When was Zach Haberman fired?

A. I believe it was September of 2009.

Q. When was Ms. Livingston reassigned from the Queens courthouse position?

A. Either fall of 2008, November

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Greenfield

maybe, October. I don't remember the specifics.

Q. So she was still reporting directly to Zach Haberman when she was removed from that position; correct?

A. He was still the court's editor for that court, yes.

Q. Do you know if he played any role in the decision to reassign Ms. Livingston?

A. I don't know. I don't know.

Q. Did Ms. Livingston ever tell you directly that Mr. Haberman had screamed or raised his voice at her?

A. She never said anything like that at all to me.

Q. Did she ever say that he had cursed at her?

A. She never said anything like that to me.

Q. Did anybody ever tell you that Ms. Livingston complained about Zach Haberman raising his voice to her before he was terminated?

A. No.

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<p>1 Greenfield</p> <p>2 Q. I am not asking you to guess?</p> <p>3 A. Okay. I don't remember what she</p> <p>4 said about -- I don't remember.</p> <p>5 Q. Can you recall a single thing that</p> <p>6 Ms. Gotthelf said to you when she told you</p> <p>7 that she had discussed placing Billy Gorta in</p> <p>8 the courthouse with Col Allan and Jesse</p> <p>9 Angelo?</p> <p>10 A. Not specifically, no.</p> <p>11 Q. Did you play any role in Mr. Gorta</p> <p>12 being assigned to that position in the Queens</p> <p>13 courthouse?</p> <p>14 A. Again only tangentially. I wasn't</p> <p>15 even the deputy metro editor at the time.</p> <p>16 Q. What role did you play?</p> <p>17 A. I was asked my opinion.</p> <p>18 Q. What opinion did you give?</p> <p>19 A. If it is good for the desk, then</p> <p>20 do it.</p> <p>21 Q. Who asked you for your opinion?</p> <p>22 A. Michelle Gotthelf.</p> <p>23 Q. Did Billy Gorta ever have any</p> <p>24 performance issues before he was put into the</p> <p>25 Queens courthouse position?</p>	<p>1 Greenfield</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. You know, I -- I did not supervise</p> <p>4 Billy Gorta -- he was on the desk with me, I</p> <p>5 didn't supervise him. I was not privy to his</p> <p>6 history. Billy was a colleague on the desk.</p> <p>7 Q. Well based on your working with</p> <p>8 him on the metro desk how would you describe</p> <p>9 his work performance as an editor on that</p> <p>10 desk?</p> <p>11 MR. LERNER: Objection.</p> <p>12 A. You know, how would I describe his</p> <p>13 performance; I mean Billy was an intelligent</p> <p>14 guy. I mean he certainly was a dedicated</p> <p>15 journalist. He taught at Columbia.</p> <p>16 Q. I am not asking you about his</p> <p>17 background?</p> <p>18 A. But it informed --</p> <p>19 Q. Focus on the question I am asking</p> <p>20 you?</p> <p>21 A. Okay. Well I mean he was a very</p> <p>22 knowledgeable journalist. Understood law and</p> <p>23 order because, you know, he dealt with shack</p> <p>24 issues, S-H-A-C-K, that is a jargon for the</p> <p>25 police bureau, because he had been a police</p>
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<p>1 Greenfield</p> <p>2 captain. But I know that he -- that for the</p> <p>3 most part from my perspective for the most</p> <p>4 part he was a</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 REDACTED</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Greenfield</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 REDACTED</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 Greenfield</p> <p>2 Mr. Lippner has again said something, or said</p> <p>3 something audible, shaking his head disrupting</p> <p>4 this deposition.</p> <p>5 MR. LIPPNER: I did not say a</p> <p>6 word, Mr. Thompson. I did shake my head,</p> <p>7 and you are grandstanding trying to</p> <p>8 intimidate the witness.</p> <p>9 MR. THOMPSON: I am not</p> <p>10 grandstanding. I am not trying to</p> <p>11 intimidate the witness. I want you to</p> <p>12 behave appropriately in this deposition.</p> <p>13 A. I would like to hear the question</p> <p>14 again please.</p> <p>15 Q. Sure, read it back to him.</p> <p>16 (Record read.)</p> <p>17 A. Okay. I don't -- I wasn't there</p> <p>18 for the entire time that Billy was there. I</p> <p>19 also wasn't there during the entire time on a</p> <p>20 given day that Billy was there. But yes, he</p> <p>21 could be negative at times, yes.</p> <p>22 Q. Did he also exhibit poor decision</p> <p>23 making when you worked with him on the metro</p> <p>24 desk?</p> <p>25 A. I can't speak to that.</p>	<p>1 Greenfield</p> <p>2 Q. After Mr. Gorta was assigned to</p> <p>3 the Queens Supreme Court did he ever need a</p> <p>4 rewrite in connection with his stories that he</p> <p>5 filed?</p> <p>6 A. It goes back to testimony I had</p> <p>7 given earlier. I don't -- first off it is for</p> <p>8 the entire time that he was there, again it</p> <p>9 covers a lengthy period of time. So I would</p> <p>10 imagine that there are times that he did. But</p> <p>11 he never required like a dedicated rewrite.</p> <p>12 If he needed rewrite it was in the context of</p> <p>13 what I mentioned earlier. Maybe he had</p> <p>14 multiple stories and he needed to hand off</p> <p>15 notes to someone to make deadlines. But he</p> <p>16 routinely filed his own copy.</p> <p>17 Q. Did he need to improve his writing</p> <p>18 at any point during his assignment to the</p> <p>19 Queens courthouse?</p> <p>20 A. I don't know that.</p> <p>21 Q. I am showing you now what has been</p> <p>22 marked as Greenfield Exhibit 8. For the</p> <p>23 record it is Bates stamped NYP-FL 903 through</p> <p>24 NYP-FL 906.</p> <p>25 (Greenfield Exhibit 8, document</p>
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<p>1 Greenfield</p> <p>2 Bates stamped NYP-FL 903 through NYP-FL</p> <p>3 906, marked for identification, as of</p> <p>4 this date.)</p> <p>5 Q. Please take a moment</p> <p>6 Mr. Greenfield and look at that exhibit and</p> <p>7 tell us if you recognize it. I want to</p> <p>8 specifically direct your attention to the page</p> <p>9 Bates stamped NYP-FL 905.</p> <p>10 A. After this line of questioning can</p> <p>11 we take a break.</p> <p>12 Q. Sure, we can take another break.</p> <p>13 Mr. Greenfield, I want to</p> <p>14 specifically direct your attention to -- first</p> <p>15 of all let me back up. This is a performance</p> <p>16 appraisal that was given to Billy Gorta for</p> <p>17 2009; correct?</p> <p>18 A. Yes, fiscal year 2009.</p> <p>19 Q. I want to direct your attention to</p> <p>20 the last page of this exhibit which is NYP-FL</p> <p>21 906, do you see the signatures on the back of</p> <p>22 that page?</p> <p>23 A. I do.</p> <p>24 Q. Do you recognize any of those</p> <p>25 signatures?</p>	<p>1 Greenfield</p> <p>2 A. It looks like REDACTED and it</p> <p>3 looks like Michelle's.</p> <p>4 Q. Did you participate in any way in</p> <p>5 this particular evaluation that was given to</p> <p>6 REDACTED</p> <p>7 A. I did not.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 Q. So do you know Mr. Greenfield if</p> <p>17 REDACTED needed rewrite for major trials?</p> <p>18 A. I don't recall that, no.</p> <p>19 MR. THOMPSON: We can take a break</p> <p>20 now. If you have to go to the restroom</p> <p>21 or whatever you need to do.</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 4:37, we are going off the record.</p> <p>24 (Recess taken.)</p> <p>25 THE VIDEOGRAPHER: The time is</p>

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<p>1 Greenfield</p> <p>2 you call her in connection with her job?</p> <p>3 A. The process is the answer, and I</p> <p>4 was answering your question because it is not</p> <p>5 as simple as it sounds --</p> <p>6 Q. Yes or no, do you call Ms.</p> <p>7 Livingston in connection with her job, yes or</p> <p>8 no?</p> <p>9 MR. LERNER: No, it can't be</p> <p>10 answered yes or no?</p> <p>11 A. Actually can't.</p> <p>12 Q. Do you ever call Ms. Livingston in</p> <p>13 connection with her job, yes or no?</p> <p>14 MR. LERNER: No, I know the</p> <p>15 subject matter here, and I can tell you</p> <p>16 Ken that this can't be answer yes or no.</p> <p>17 Q. Answer it any way your can</p> <p>18 Mr. Greenfield?</p> <p>19 A. The switchboard operators, the</p> <p>20 desk people as I mentioned earlier, sometimes</p> <p>21 it is desk assistants, sometimes it is people</p> <p>22 who run that part, that department as I</p> <p>23 mentioned. Deadlines being what they are and</p> <p>24 as hectic as it can be in a news room we</p> <p>25 actually as editors a lot of the time, and me</p>	<p>1 Greenfield</p> <p>2 more so than others because of the nature of</p> <p>3 my job, don't actually dial the phone that</p> <p>4 often.</p> <p>5 So I will call out can you get me</p> <p>6 so and so, can you get me Kim, can you get me</p> <p>7 Kevin, can you get me Rebecca, that sort of</p> <p>8 thing. So that is usually on a rare occasion</p> <p>9 there is a speed dial list that you will hit a</p> <p>10 two digit number, but I don't usually use</p> <p>11 that.</p> <p>12 Q. Would you expect Ms. Livingston</p> <p>13 who has worked at The Post for fifteen years</p> <p>14 to have a telephone number at The Post?</p> <p>15 A. As I testified earlier I don't</p> <p>16 know who has got numbers and who doesn't.</p> <p>17 Q. I am not asking that. Can you</p> <p>18 answer my question please?</p> <p>19 A. Then please ask the question</p> <p>20 again.</p> <p>21 MR. THOMPSON: Read it back.</p> <p>22 (Record read.)</p> <p>23 MR. LERNER: Objection.</p> <p>24 A. I can't say because people use</p> <p>25 their phones for work, they get reimbursed, I</p>
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<p>1 Greenfield</p> <p>2 don't know. It is not a value judgment that I</p> <p>3 can make.</p> <p>4 Q. Do you know if Amber Sutherland</p> <p>5 has a telephone number at the New York Post?</p> <p>6 A. I don't.</p> <p>7 Q. How often have you seen Ms.</p> <p>8 Livingston in the news room after she was</p> <p>9 reassigned from the Queens courthouse?</p> <p>10 A. Maybe a handful of times. It is</p> <p>11 not typical to see field reporters in the</p> <p>12 newer.</p> <p>13 Q. When she worked in the Queens</p> <p>14 courthouse she had a telephone number in the</p> <p>15 courthouse; correct?</p> <p>16 A. I don't know.</p> <p>17 Q. Did you ever see Ms. Livingston in</p> <p>18 the news room and ask her what are you doing</p> <p>19 here?</p> <p>20 A. I believe I may have.</p> <p>21 Q. Describe the time that you saw her</p> <p>22 in the news room and asked what was she doing</p> <p>23 there?</p> <p>24 A. I read this in the complaint, it</p> <p>25 jarred my memory of you know that, that</p>	<p>1 Greenfield</p> <p>2 conversation. Kim at this point had been, you</p> <p>3 know, she was working as a field reporter.</p> <p>4 Field reporters are not routinely in the news</p> <p>5 room, and when you are supposed to be out on</p> <p>6 assignments and certainly in communication</p> <p>7 with your desk as far as your whereabouts.</p> <p>8 And I remembered that she came in the office</p> <p>9 and I was surprised to see her there because</p> <p>10 she had not let us know that she had changed</p> <p>11 locations, and I was, well, I was what are you</p> <p>12 doing here.</p> <p>13 Q. What location was she supposed to</p> <p>14 be at at that time?</p> <p>15 A. I can't tell you specifically.</p> <p>16 Field reporters --</p> <p>17 Q. I am asking you where was Ms.</p> <p>18 Livingston supposed to be on that day when you</p> <p>19 asked her what are you doing here?</p> <p>20 A. I don't recall.</p> <p>21 Q. What assignment was she supposed</p> <p>22 to be covering when you approached her in the</p> <p>23 news room and asked her what she was doing</p> <p>24 there?</p> <p>25 A. Two things there. A. I don't</p>

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2 A. You know what, I -- that is my
3 recollection, but like I said the conversation
4 such as it was was very hazy.5 Q. What is your recollection based on
6 that Ms. Livingston was working that day?7 A. When I saw it in the complaint I
8 tried to remember back to it. And that was --
9 I seem to remember yes, seeing her once in the
10 news room. But that is really it, it was not
11 a confrontation or anything.12 Q. Didn't you approach her in a
13 hostile manner?

14 MR. LERNER: Objection.

15 A. Absolutely not.

16 Q. Do you recall how you spoke to her
17 that day?

18 A. I --

19 Q. Do you recall how you spoke to her
20 that day?21 A. Excuse me. I have never
22 approached Kim in a hostile manner.23 Q. Do you recall how you approached
24 her that day Mr. Greenfield?

25 A. I don't recall whether I

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2 approached her, whether she saw me, whether
3 she was walking by my desk.4 Q. Do you recall how you spoke to her
5 that day?6 MR. LERNER: You need to answer
7 verbally.

8 THE WITNESS: Yes, I am sorry.

9 A. Barely. What are you doing here.

10 Q. So is it your testimony
11 Mr. Greenfield that the only thing that you
12 recall about that conversation is the question
13 you posed to Ms. Livingston, what are you
14 doing here?

15 A. Yes. And I barely recall it.

16 Q. Now you said that you have seen
17 her in the news room on other occasions since
18 she was reassigned from the Queens courthouse?

19 A. On occasion.

20 Q. Do you know what she was doing in
21 the news room on those other occasions?22 A. Well I mean I saw her when she
23 came in for reviews, evaluations, that sort of
24 thing.

25 Q. Other than coming in for reviews

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2 and evaluations?

3 A. She came in fairly recently, I
4 remember she was in the news room bringing
5 notes on a story. But I, you know, I remember
6 seeing her around. I don't see her that
7 often.8 Q. How many times have you seen her
9 in the news room separate and apart from
10 having her come in for an evaluation?

11 A. I couldn't put a number on it.

12 Q. More than ten times?

13 A. I couldn't put a number on it.

14 Q. Isn't it fair to say that you
15 rarely see Ms. Livingston in the news room?

16 A. That is fair.

17 Q. Because she is in the street;
18 correct?19 A. No. Well she is a reporter who is
20 assigned to work in the field.

21 Q. The field is the street?

22 A. It doesn't have to be a street, it
23 could be in a building.24 Q. Have you ever yelled at Ms.
25 Livingston?

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2 A. Not that I recall.

3 Q. Have you ever raised your voice at
4 her?

5 A. Not that I recall.

6 Q. Have you ever cursed at her?

7 A. Not that I recall.

8 Q. Have you ever uttered profanity
9 while talking to her?

10 A. Not that I recall.

11 Q. Have you ever hung up the phone on
12 Ms. Livingston?

13 A. Not that I recall.

14 Q. Have you ever had any
15 disagreements with Ms. Livingston during her
16 employment at The Post?

17 MR. LERNER: Objection.

18 A. I would actually need more
19 clarity.

20 Q. Sure, I will give you clarity.

21 Have you ever became upset at Ms.
22 Livingston during her employment?23 A. Okay, I mean specific instances,
24 yes, I probably became upset with every
25 reporter at one time or another.

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<p>1 Greenfield 2 voice during that call? 3 A. I could not say. 4 Q. Did Mr. Fenner utter profanity 5 toward you during that call? 6 A. I don't recall if he did or 7 didn't. 8 Q. What else did you say to Mr. 9 Fenner during that call? 10 A. All right, well, I asked him why 11 it was that he had not been in contact with 12 the desk. I asked him why -- whether he was 13 going to an event where Archbishop Dolan was 14 going to be. I asked him where he was. I 15 asked him whether he had planned on going to 16 this event. I asked him whether or not he had 17 been in touch with the photo desk. I asked 18 him a number of questions about where he was, 19 why he was where he was. You know, it was all 20 related to a couple of different issues. 21 And I raised with him the fact 22 that he couldn't be reached, and I pointed 23 that out to him that he couldn't be reached 24 for about 40 minutes which is unacceptable for 25 a reporter on the road. I raised the issue</p>	<p>1 Greenfield 2 that he was at a -- you know, I wanted to know 3 if he even knew about a press conference or an 4 event. That I had to learn from the photo 5 desk as opposed to him in the field. 6 I had to ask him why he had not 7 contacted me this morning. Why he didn't let 8 me know what he was up to. I wanted to 9 confirm whether he knew there was this event, 10 I had to direct him to go to the event. There 11 may have been other elements that I discussed, 12 but I remember those topics. 13 Q. What did Mr. Fenner say to you 14 during that call? 15 A. Well I don't remember specifically 16 what he said, but he said that he had not 17 planned on going to the event. He didn't -- I 18 remember that. I remember him pointing out 19 that he was going to be talking with Dolan at 20 some point during the day. But I had to 21 explain to him why it was important to go to 22 this event where Dolan was, and we discussed 23 that as well. 24 Q. Isn't it true that Mr. Fenner had 25 told you that he had planned on attending that</p>
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<p>1 Greenfield 2 event? 3 A. No. 4 Q. Isn't it true that you yelled and 5 cursed at him and didn't even let him get a 6 word in? 7 A. Again I did not curse at him. 8 Q. You uttered profanity during that 9 call? 10 A. Yes. 11 Q. You uttered the word fuck when you 12 spoke to him; correct? 13 A. Yes, I believe I did. 14 Q. Do you normally utter the word 15 fuck when you speak to people Mr. Greenfield? 16 MR. LERNER: Objection. 17 A. Do I often? 18 Q. Yes. 19 A. Yes. I have to say it is not 20 uncommon. It is the way that people speak in 21 the news room. You hear it a lot. 22 Q. It is the way people speak in the 23 news room at the New York Post? 24 A. Well every news room that I worked 25 in. But yes, I mean it is not uncommon to</p>	<p>1 Greenfield 2 hear profanity in the workplace. 3 Q. Have you ever heard Austin Fenner 4 utter profanity? 5 A. You know -- 6 Q. Have you ever heard him utter 7 profanity, please answer that question? 8 A. Please let me finish. I don't 9 know. 10 Q. Have you ever heard Kim Livingston 11 utter profanity? 12 A. I don't know. 13 Q. And the only person who uttered 14 profanity during that phone call with you and 15 Austin Fenner was you; is that correct? 16 A. I didn't say that. 17 Q. I am asking. Did Austin Fenner 18 utter profanity during that phone call? 19 MR. LERNER: Objection. Asked and 20 answered. 21 A. I don't remember exactly whether 22 he did or didn't. 23 Q. As you sit here now do you recall 24 Austin Fenner uttering profanity during that 25 phone call on that day?</p>